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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
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April 25, 2016

The Honorable Gene Dodaro
Comptroller General of the United States
441 G Street NW
Washington, DC 20548

Dear Mr. Dodaro:

The Office of Special Counsel (OSC) is the primary agency that safeguards the merit system by protecting federal employees and applicants from prohibited personnel practices, including whistleblower reprisal.¹ Since the OSC's creation in 1979, the Government Accountability Office (GAO) has periodically evaluated OSC's effectiveness in carrying out its statutory responsibilities and has identified areas for improvement. It appears GAO has not conducted a substantial programmatic review of OSC's functions for several years.²

In the 114th Congress, the Committee has examined the difficulties that federal employees have experienced after blowing the whistle on waste, fraud, and abuse in the government. The Committee has heard from whistleblowers in the Department of Homeland Security, the Department of Veterans Affairs, the Department of Defense, the Social Security Administration, and a number of other agencies. Often, after exposing misconduct, these whistleblowers may face removal from their job, suspension of pay, and retaliatory investigations.

The OSC exists to champion and protect federal whistleblowers. Because of the OSC's role in protecting federal whistleblowers, it is important that the agency operates efficiently and effectively. With the increase in whistleblower disclosures in recent years and the passage of the Whistleblower Protection Enhancement Act in 2012, the time is ripe for GAO to examine the processes and procedures of the OSC. Accordingly, I request that GAO evaluate the OSC's work, including by examining the following issues:

- The effectiveness and efficiency of OSC's case management processes and protocols. To complete this request, please evaluate:

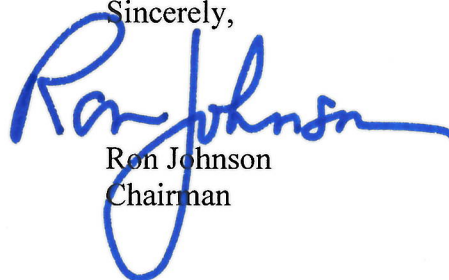
¹ U.S. Office of Special Counsel, <https://osc.gov/Pages/about.aspx> (last visited Apr. 25, 2016).

² See, e.g., U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-07-318R, OFFICE OF SPECIAL COUNSEL NEEDS TO FOLLOW STRUCTURED LIFE CYCLE MANAGEMENT PRACTICES FOR ITS CASE TRACKING SYSTEM (2007) available at <http://www.gao.gov/products/GAO-07-318R>; see also U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-07-263R, U.S. OFFICE OF SPECIAL COUNSEL'S PROCEDURES FOR ASSIGNING INCOMING CASES TO AND WITHIN ORGANIZATIONAL UNITS (2007) available at <http://www.gao.gov/products/GAO-07-263R>.

- OSC's processes for reviewing and referring complaints of Prohibited Personnel Practices (PPP);
 - OSC's processes for reviewing and referring disclosure complaints;
 - The metrics that the OSC uses to determine whether to refer a complaint for investigation;
 - The metrics that the OSC uses to determine how to assign complaints to OSC employees; and
 - The metrics that the OSC uses to reopen an investigation or grant a request for reconsideration.
- OSC's success rate in protecting whistleblowers. To complete this request, please evaluate:
 - OSC's practices and procedures regarding stays of personnel actions;
 - How OSC ensures a consistent approach to the treatment of complaints across the agency;
 - The training of OSC's attorneys, investigators, and other staff specialists who review, refer, or investigate PPP or disclosures to OSC; and
 - OSC's policies and practices to ensure the confidentiality of whistleblowers who have requested confidentiality.
 - Whether there are adequate safeguards in place for proper oversight of OSC. To complete this request, please evaluate:
 - How and to whom OSC employees report PPP or make disclosures;
 - The adequacy of the Memorandum of Understanding between OSC and the National Science Foundation Office of Inspector General;
 - The adequacy of the mechanisms in place to prevent a conflict of interest of the Special Counsel or Deputy Special Counsel on the Council of the Inspectors General on Integrity and Efficiency Integrity Committee; and
 - The role that senior OSC leadership plays in determining which complaints are referred for investigation.

If you have any questions about this request, please contact Kyle Brosnan of the Committee staff at (202) 224-4751. Thank you for your attention to this important matter.

Sincerely,



Ron Johnson
Chairman

cc: The Honorable Thomas R. Carper
Ranking Member